

# **EXHIBIT 4**

**A.H. and H.H., ET AL. vs COUNTY OF SAN BERNARDINO, ET AL.**  
**Phillip L. Sanchez on 08/21/2024**

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA

3

4 A.H. and H.H., in each case a minor, )  
by and through their guardian ad )  
5 litem Crystal Hanson, individually )  
and as successor in interest to Shane )  
6 Holland, deceased; C.H., a minor by )  
and through her guardian ad litem, )  
7 Reymi Updike; individually and as )  
successor in interest to Shane )  
8 Holland, deceased, and PATRICIA )  
HOLLAND, individually, )

9

Plaintiffs, )

10

vs. )

11

COUNTY OF SAN BERNARDINO; JUSTIN )  
12 LOPEZ, DOES 1-10, inclusive, )

13

Defendants. )

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WEDNESDAY, AUGUST 21, 2024

Reported Stenographically By:

Jinna Grace Kim, CSR No. 14151

Job No.: 96886

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The remote videoconference deposition of PHILLIP L.  
SANCHEZ, taken on behalf of the Plaintiffs, beginning at  
10:33 a.m., and ending at 12:21 p.m., on Wednesday, August  
21, 2024, before Jinna Grace Kim, Certified Stenographic  
Shorthand Reporter No. 14151.

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1 to discharge.

2 Q. Okay. Sorry. I think your verbiage is much better  
3 than mine. I'll stick with that for future questions --

4 A. -- perfect, sir.

5 Q. Okay. And do you have an understanding of how many  
6 rounds struck the decedent in this case out of the six?

7 A. Yes.

8 Q. And what is your understanding?

9 A. My understanding is that four of the six rounds  
10 struck Mr. Holland.

11 Q. So I want to ask you just a few questions about the  
12 standards that apply to the use of deadly force. That's kind  
13 of the next topic I would like to cover with you if that's  
14 okay.

15 A. Yes, sir. Your pleasure.

16 Q. And would you agree that deadly force is the highest  
17 level of force a police officers can use?

18 A. Yes.

19 Q. And based on the training the expectation is if  
20 you're shooting someone center mass with a firearm, it's  
21 likely to cause serious bodily injury or death?

22 A. Yes.

23 Q. And would it be fair to say that officers are  
24 trained that they should only use deadly force in limited  
25 circumstances?

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1 A. Yes. Based on the totality of the circumstances and  
2 in compliance with the laws and policy.

3 Q. And is it generally the training that an officer  
4 must have a reasonable belief of an immediate or imminent  
5 threat of death or serious bodily injury?

6 A. Yes.

7 Q. And just speaking about the threat level for a  
8 moment, would you agree a potential threat or potential  
9 deadly threat is not enough; the threat must be imminent or  
10 immediate, and it must have be of death or serious bodily  
11 injury?

12 A. Yes. I would add the perception of -- can -- the  
13 peace officer can perceive that those facts actually exist  
14 and in reality they may not.

15 Q. Would you agree that the perception in terms of  
16 analysis from an expert like yourself would have to be  
17 reasonable, though?

18 A. Yes.

19 Q. Are officers trained that they should give a verbal  
20 warning before using deadly force when feasible?

21 A. When safe and feasible.

22 Q. And are officers trained in terms of using deadly  
23 force, they have to justify all their shots?

24 A. Yes.

25 Q. As a law enforcement officer in your career, had you

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1 ever seen a suspect with a weapon in their hand before?

2 A. Yes.

3 Q. Would that include firearms?

4 A. Yes.

5 Q. And do you have an estimate as to how many times you  
6 had seen a suspect with a firearm in their hand before in  
7 your career?

8 A. I would say between 50 and 80 eighty times where I  
9 physically saw the suspect was armed with a firearm.

10 Q. Were you trained that you could simply shoot someone  
11 for seeing a firearm in their hand?

12 A. No.

13 Q. Were you yourself involved in any officer-involved  
14 shootings?

15 A. Yes.

16 Q. And how many, where you actually fired?

17 A. Five.

18 Q. And out of those five, how many of the individuals  
19 had firearms in their hands, if you recall?

20 A. I believe it was three.

21 Q. So if I'm doing my math right, would it be fair to  
22 say you saw some individuals with firearms in their hands  
23 that you did not shoot?

24 A. That's correct.

25 Q. And then the other two times you fired, was there a

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1 Q. What time frame were you there?

2 A. From April 18, 1980 through April -- I'm sorry --  
3 through July 12, 2010.

4 Q. Are you familiar with the current POST Standards  
5 about someone having the present ability, opportunity, and  
6 apparent intent to immediately cause death or serious bodily  
7 injury?

8 A. Yes, sir. I believe it's referred to as AOI.

9 Q. And you're familiar that's part of the revised Penal  
10 Code Section now, I think, 835?

11 A. Yes, sir.

12 Q. And also incorporated into the POST Learning Domain  
13 on excessive force, I think, Learning Domain 20?

14 A. That's correct, sir.

15 Q. And would you agree that the POST Standards are fear  
16 of future harm no matter how great or how likely, is  
17 insufficient to use deadly force?

18 A. I would agree.

19 Q. So let's talk a little bit about your understanding  
20 of the facts in this case, and then I might have you a few  
21 questions about tactics as I go.

22 Is that all right?

23 A. Yes, sir. At your pleasure.

24 Q. And this is not a complete memory test. So if you  
25 want to review your report or look at something, I'm going to

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1 allow you to do that. You can just tell us may I refer to  
2 report to my report similar to how you do in court or just  
3 let us know I'm looking at Page 5 of my report, for example.

4 Okay?

5 A. Yes, sir.

6 Q. Do you have an understanding from reviewing the  
7 materials as to why the vehicle was initially stopped or  
8 approached?

9 A. Yes.

10 Q. And what is your understanding?

11 A. I believe that Deputy Lopez had told investigators  
12 the night of the incident and then subsequently in deposition  
13 that he saw a blue Chevy mid-sized SUV, and that the license  
14 plate was in poor repair obscuring the characters and numbers  
15 to the point that Deputy Lopez could not read them.

16 Additionally, that the license plate on the  
17 mid-sized SUV was not affixed to the vehicle in what I would  
18 call the normal place, the standard or routine place. It was  
19 near the upper-left rear tailgate area of the SUV.

20 Deputy Lopez then determined that he wanted to  
21 affect a traffic stop and then followed his training and  
22 protocol to do so.

23 Q. If you recall, did the vehicle pull over?

24 A. It did.

25 Q. I think you would agree at least with me that this



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1 was not like a serious crime that the vehicle was being  
2 pulled over for; is that fair?

3 A. I believe that's accurate. Both of the Deputy  
4 Lopez's observations would have been infraction violations in  
5 the California Vehicle Code.

6 Q. And as part of the materials that you reviewed, did  
7 you listen to the radio dispatch tape?

8 A. I did.

9 Q. And did you listen to any audio recording of the  
10 incident?

11 A. Yes. That was captured by Deputy Lopez's belt  
12 recorder.

13 Q. Did you have an understanding as to whether or not  
14 the deputies had body-worn cameras at the time?

15 A. My understanding was that San Bernardino County  
16 Sheriffs had not issued body-worn cameras at that point.

17 Q. And is it your understanding there were two people  
18 in the vehicle?

19 A. Yes.

20 Q. And is it your understanding that the decedent was  
21 not driving, but in a passenger seat?

22 A. Front, right passenger seat, yes.

23 Q. And when you listened to the audio of the stop, did  
24 you hear any discussion about the license plate with the  
25 driver?

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1 A. Yes.

2 Q. And do you recall from listening to the dispatch  
3 tape if Deputy Lopez called in the stop?

4 A. He did advise the communication center of his  
5 location and the purpose of his stop.

6 Q. And would you agree that Deputy Lopez had no  
7 information that there were any weapons in the car, for  
8 example, would you agree?

9 A. Yes.

10 Q. And would you agree he did not see any weapons in  
11 the car?

12 A. Yes.

13 Q. He had no information that the individuals in the  
14 car had a prior criminal history, would you agree with  
15 that?

16 A. During the initial phases, that's correct.

17 Q. Do you have any information that Deputy Lopez  
18 learned of any criminal history of Mr. Holland before he shot  
19 him?

20 A. No. I believe that the evidence that I reviewed in  
21 case materials suggested that Deputy Lopez was attempting to  
22 identify Mr. Hanson, the driver, and Mr. Holland who actually  
23 had provided a false name. I believe he said his name was  
24 Atkins and provided a date of birth in May at some point.

25 Q. And then eventually Mr. Holland gets out of the car

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1 perimeter and containment.

2 Q. Do you know whether or not Deputy Lopez asked for  
3 assistance or backup at any point?

4 A. He did not use that verbiage. Contemporary training  
5 in law enforcement suggest that when assisting officers, in  
6 this case, Deputy Hillebrand and Sergeant Rios, when they  
7 monitor a radio broadcast, in this case by Deputy Lopez who  
8 said chasing one or foot pursuit verbiage of that kind, that  
9 there are going to be a response at some point by the  
10 assisting officers.

11 Q. And do you have an understanding as to whether the  
12 backup officers were in route after Deputy Lopez put out that  
13 dispatch?

14 A. My understanding is that Deputy Hillebrand told  
15 investigators and then later in a deposition that he  
16 monitored the radio broadcast and then started to drive  
17 towards the area of Cactus Road and US 395 where the vehicle,  
18 Mr. Hanson's had been stopped.

19 I believe that's Sergeant Rios who was at the patrol  
20 station provided similar testimony that he monitored the call  
21 and then did not initially respond, and then when heard the  
22 radio broadcast on chasing one or foot pursuit, that  
23 verbiage, that he left the station, entered the patrol  
24 vehicle, and then drove towards Cactus Road and US 395.

25 Q. And so one possibility getting the assistance of

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1 additional officers is to set up a containment or  
2 perimeter?

3 A. That is a possibility. Given the vastness of the  
4 area out at 395 and Cactus Road, I did conduct a site visit.  
5 I have a sense of what that area looks like given the absence  
6 of either artificial or ambient light, a perimeter would  
7 still be difficult with three law enforcement officers given  
8 that area.

9 Q. Just going back for a moment to the time that Mr.  
10 Holland was in the vehicle, do you recall at some point  
11 Deputy Lopez was at the passenger side of that vehicle?

12 A. Yes, sir.

13 Q. And according to Deputy Lopez, I think you've  
14 already told me this; he didn't see any weapons on Mr.  
15 Holland or in the vehicle at that time; is that fair?

16 A. Yeah. I believe that's fair. He was in full  
17 uniform, he explained the purpose of the stop, he asked  
18 investigatory questions, and then he returned to his vehicle.

19 Q. And there was no indication of any verbal threats to  
20 him at that point; is that correct?

21 A. Not threats. I think Deputy Lopez indicated the  
22 individual he thought was Atkins was nervous, avoiding eye  
23 contact, but did not testify to seeing any weapons or threats  
24 that were made directly at Deputy Lopez.

25 Q. And what is your understanding as to where Deputy

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1 Lopez was when Mr. Holland got out of the vehicle and started  
2 to flee?

3 A. The passenger side of his marked San Bernardino  
4 County Sheriff's unit, my understanding is the passenger door  
5 was open, and Deputy Lopez was conducting DMV and other  
6 checks on his MDC, which stands for Mobile Data Computer.

7 Q. Prior to Mr. Holland fleeing, do you think it would  
8 have been appropriate to use any force on Mr. Holland prior  
9 to him getting out of the car and fleeing?

10 A. There would have been no need for or justification  
11 for Deputy Lopez based just on the traffic stop. The  
12 avoidance by Mr. Holland, or AKA Atkins, would not have been  
13 sufficient to use force.

14 Q. And when Mr. Holland started running away, is it  
15 your understanding he was going generally southbound at  
16 first?

17 A. Generally, yes, southeast, I think, parallel to  
18 395.

19 Q. And was his back generally to Deputy Lopez when he  
20 initially started running away southbound?

21 A. I believe Deputy Lopez testified that when Mr.  
22 Holland exited the vehicle, his back was generally towards  
23 Deputy Lopez. However, he did look over his left shoulder  
24 and initially had his hands at his waistband which was of  
25 course concerning to Deputy Lopez.

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1 Q. Do you think it would have been appropriate based on  
2 the facts, let's say up to the time that Mr. Holland starts  
3 running away generally southbound, do you think it would have  
4 been appropriate for Deputy Lopez to shoot him at that  
5 time?

6 A. No.

7 Q. And why not, why not at that time?

8 A. I think during as -- your hypothetical's a little  
9 incomplete, but --

10 Q. Let's say -- I'm sorry. Just to clarify, because I  
11 think it was incomplete, prior to him saying something to  
12 Deputy Lopez just running away initially?

13 A. I don't think running away initially would have  
14 necessarily been justification for deadly force, although,  
15 Deputy Lopez reported that almost immediately after Mr.  
16 Holland had his hands at his waistband.

17 My experience as a professional law enforcement  
18 officer has been that weapons are oftentimes concealed or  
19 carried in what is commonly referred to as an appendix carry,  
20 so in the waistband at the front of the torso or somewhere  
21 along the extended area of the waistband.

22 So I think a reasonable officer seeing that activity  
23 would take note as Deputy Lopez did, but that in and of  
24 itself is not justification to shoot someone.

25 Q. And then is it your understanding as Mr. Holland was

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1 running away from Deputy Lopez, at some point he said, "I  
2 will shoot you" or words to that effect?

3 A. Yes, sir. My understanding is Mr. Holland's  
4 comments were, "I will shoot" or "I will shoot you."

5 Q. And when Mr. Holland was saying that initially  
6 running southbound, do you think it would have been  
7 appropriate for Deputy Lopez to shoot him at that time  
8 without seeing any object in his hand or without him turning  
9 towards him, just running away?

10 A. No. Given the facts of your hypothetical, it might  
11 not have been appropriate at that time. There are now --  
12 there is felonious behavior. So we left the arena of an  
13 infraction. We crossed over into an arena of misdemeanor  
14 behavior, the 148, resisting, fleeing.

15 And now Mr. Holland has in my opinion escalated the  
16 event with felonious behavior, direct assault or a direct  
17 threat of an assault on a peace officer. The totality of  
18 that circumstance, Mr. G, in my opinion are concerning. They  
19 might not justify lethal force at that exact moment, but  
20 based on the totality of the circumstances, Deputy Lopez or a  
21 reasonably trained police officer would have concern at that  
22 point.

23 Q. But you would agree, I think we talked about this  
24 earlier, concern for future harm may be very well supported,  
25 but that doesn't necessarily rise to the level where you can

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1 use deadly force?

2 A. I would agree.

3 Q. So at that point when he is running away, he says

4 "I'll shoot" or "I will shoot you," understanding the crimes

5 he committed, the 148 and now a threat of verbal threat on a

6 police officer, would you at least agree there that would not

7 yet justify the use of deadly force?

8 MS. ANDERSEN: Objection. Incomplete hypothetical;

9 You can answer.

10 THE WITNESS: Given the fact pattern that you

11 offered, I would agree with limited fact pattern. I thought

12 it interesting, Mr. G, that you injected the word "yet," and

13 I would agree it suggests that there is concern and suggests

14 that there is felonious behavior, and it suggests that the

15 officer, in this case Deputy Lopez, would be concerned and

16 stated as much for his safety, but yet not at the realm of

17 using deadly force.

18 BY MR. GALIPO:

19 Q. Do you think it would have been appropriate or

20 unreasonable for Deputy Lopez at that point to stop a close

21 foot pursuit of Mr. Holland when Mr. Holland is saying "I

22 will shoot you" or words to that effect?

23 Would you have been critical of that?

24 A. In this case, no. And if I can explain.

25 Q. Sure.



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1 to his testimony, Deputy Lopez's testimony, he didn't see an  
2 object either during that time frame?

3 A. That's correct. Only that Mr. Holland's hands were  
4 continuously at his waistband.

5 Q. And that during that time frame as they were going  
6 southbound, Mr. Holland was generally running away from  
7 Deputy Lopez, would you agree with that?

8 A. I think through the entire chase Mr. Holland was  
9 attempting to evade or escape.

10 Q. And as Mr. Holland was running southbound before he  
11 hit that dirt patch, would you agree it would have been  
12 inappropriate for Deputy Lopez to shoot him?

13 A. Yes. I don't believe that there are enough  
14 circumstances at that point, and I would add based on the  
15 circumstance or based on the evidence that I reviewed,  
16 clearly Deputy Lopez did not fire at that point.

17 Q. So running away, obviously, would not be enough  
18 under these facts to use deadly force, would you agree with  
19 that?

20 A. Yes.

21 Q. And saying that -- just saying that you're going to  
22 shoot someone, that would also not be enough under these  
23 facts to use deadly force; it would have to be more than  
24 that; is it a fair statement?

25 A. Under the limited facts that we discussed, I think

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1 that's a fair statement.

2 Q. Now, in the radio broadcast do you recall generally  
3 what Deputy Lopez dispatched when he started in the foot  
4 pursuit?

5 A. Yes, sir. I believe it was versed to the effect of  
6 one running into the desert, something like that.

7 Q. Was there any other dispatches you recall before the  
8 shooting took place?

9 A. No. I don't believe so.

10 Q. Any reference to Mr. Holland having a gun or  
11 anything like that, that you recall before the shots fired  
12 dispatch?

13 A. I don't recall those radio broadcasts.

14 Q. And I understand the concept of keeping someone in  
15 sight, and I also understand from looking at photographs, I  
16 did not go to the scene, but I can tell from looking at the  
17 different photographs and even aerials of what you're  
18 explaining as to the layout of that area.

19 But do you think -- would you have been critical of  
20 Deputy Lopez if he backed off and created more distance, but  
21 yet kept him in sight, still, after Mr. Holland is telling  
22 him "I'm going to shoot you" or words to that effect?

23 A. Not necessarily, Mr. G, and if I can explain.

24 Q. Sure.

25 A. We're talking about an event that occurred or at

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1 A. Thank you.

2 Q. You're very welcome. The last time that Mr. Holland  
3 said, "I will shoot you," would you agree he was still  
4 running away from Deputy Lopez?

5 A. Yes.

6 Q. And Deputy Lopez was still generally looking at his  
7 back at that point?

8 A. I believe Deputy Lopez testified that Mr. Holland  
9 has made the statement "I will shoot" almost simultaneously  
10 as he's turning now to his left in a counterclockwise motion  
11 while holding an object in his right hand at his waistband  
12 when the shots were fired. I will also say that I believe it  
13 was Deputy Lopez's testimony and deposition that Mr.  
14 Holland's, the speed of the chase had closed, not approaching  
15 a stop which would be consistent with Mr. Holland's turning  
16 movement and consistent with the autopsy report of the round  
17 placements that struck, the rounds that struck Mr. Holland.

18 Q. Would you agree based on your review up to the time  
19 Mr. Holland turned and up to the time that Deputy Lopez saw  
20 an object in his hand, so before that time, it would have  
21 been inappropriate to use deadly force?

22 A. Yes. I think the linchpin here is in my estimation  
23 that when -- I don't know his state of mind necessarily, but  
24 Mr. Holland demonstrated ability, opportunity, and at least a  
25 perceived intent when he turned towards or began to turn

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1 **Holland's hand prior to the shooting?**

2 A. The cite from the Department of Justice, Mr. G, and  
3 if I can quote on Page 23 of my report, "At the moment when  
4 shots were fired, Deputy Lopez could have reasonably believed  
5 that Mr. Holland posed an imminent threat of death or serious  
6 bodily injury. The inference is that without the object and  
7 the turning movement, there would be no rationale for the use  
8 of deadly force."

9 **Q. And do you agree with that?**

10 A. With that statement that I just read?

11 **Q. Yes. Do you agree that without the turning movement**  
12 **and the object, there would be no justification to use deadly**  
13 **force?**

14 A. Yes, sir. And that's why Deputy Lopez had not fired  
15 rounds during the foot pursuit prior to Mr. Holland either  
16 slowing or stopping, turning to his left with an object in  
17 his hand, in his right hand, and at his waistband.

18 **Q. So with respect to the Department of Justice report,**  
19 **are you saying that you don't recall one way or the other**  
20 **whether the turning movement is mentioned in there, or are**  
21 **you saying you believe it is mentioned?**

22 A. May I reference the report again, sir?

23 **Q. Yes, you may.**

24 A. Thank you. On Page 23 of my report referencing the  
25 Department of Justice, part of their report, it says, "Mr.

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1 Holland fled on foot from the traffic stop holding a black  
2 cell phone rather than to stop or show his hands. Deputy  
3 Lopez chased Mr. Holland for one minute and 19 seconds over  
4 846 feet. Deputy Lopez ordered Mr. Holland to show his hands  
5 19 times. Instead of showing his hands, Mr. Holland told  
6 Deputy Lopez, 'I'll shoot' or 'I'll shoot you' a total of ten  
7 times. Given such facts, the peace officer under these  
8 circumstance could have reasonably believed that lethal force  
9 was necessary to defend against an imminent threat of death  
10 or serious bodily injury."

11 The report as I recall, did not necessarily call out  
12 that Holland was turning. However, the round strikes could  
13 not have occurred, could not have impacted Mr. Holland's  
14 torso and lower torso or lower legs if he had not completed  
15 that movement.

16 Q. The part where you read that he fled holding a black  
17 cell phone in his hand, what was the source of that  
18 information, if you know?

19 A. Yes, sir. That's a direct quote from the Department  
20 of Justice report.

21 Q. And do you know how they got that information,  
22 whether it was from Deputy Lopez or somewhere else?

23 A. I do not. My assumption is it came from Deputy  
24 Lopez.

25 Q. Have you, I take it, you have reviewed other

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1 officer-involved shooting cases; you obviously told me that  
2 earlier; correct?

3 A. Yes, sir.

4 Q. And you even had some officer-involved shooting  
5 cases in your department when you were the chief?

6 A. Yes.

7 Q. And ultimately, you had to review some of those?

8 A. All of them, yes, sir.

9 Q. And it was customary in your department, I take it,  
10 for the officers to give statements afterwards to give their  
11 account for what happened?

12 A. Customary might be an over-generalization.

13 There were times that officers provided statements  
14 and over times following the advice of their attorney, they  
15 did not provide an initial statement. However, that does not  
16 preclude the public safety requirement or a public safety  
17 statement that is required of an officer to provide as soon  
18 as reasonable and safe to do so.

19 Q. And other officer-involved shooting cases that  
20 you have reviewed, have you reviewed the officer statements  
21 when those were available?

22 A. Yes.

23 Q. And do you know whether or not Deputy Lopez gave a  
24 recorded interview in this case or a statement?

25 A. Initially, he did not give a statement, at least not

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1 to San Bernardino County investigators, and then subsequently  
2 of course, I can't recall off the top of my head, but my  
3 assumption is that he did, in fact, provide a statement at  
4 some subsequent point.

5 Q. Do you know who he provided that statement to?

6 A. It's completely speculative, Mr. G, but if, in fact,  
7 he did, it would have been to the Department of Justice, but  
8 as I sit here right now, I vaguely recall -- I do recall the  
9 night of the event he did not give a statement.

10 Q. Have you reviewed his statement? Not his  
11 deposition, but his statement at any time to anybody as part  
12 of the materials you had in this case?

13 A. No, sir. Just his deposition.

14 Q. Now, you mentioned shortly before the break, and I  
15 think again just a short while ago, the big factors here for  
16 the deadly force would be the turning motion, the object in  
17 his hand, coupled with his prior statements; is that fair?

18 A. Prior threats, when you say prior statements, prior  
19 threats?

20 Q. Yes. The prior threats.

21 A. Yes, sir.

22 Q. And I think you said something to the effect, well,  
23 Mr. Holland could have just, you know, slowed down, for  
24 example, as opposed to turning with the object in his hand?

25 A. He could have stopped; he could have put his hands

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1 up in the air; could have yelled or uttered I surrender, many  
2 things to indicate to Deputy Lopez that, you know, I want  
3 to -- I'll submit to custody.

4 Q. So if he had slowed down and stopped and not turned,  
5 that might have been scenario what deadly force may not have  
6 been necessary; is that fair?

7 MS. ANDERSEN: Objection. Incomplete hypothetical;  
8 You can answer.

9 THE WITNESS: Based on the limited circumstanced,  
10 Mr. G, that you provided in your hypothetical, it might not  
11 be necessary to use force based on those limited  
12 circumstances.

13 BY MR. GALIPO:

14 Q. And what, if hypothetically, again, my hypothetical,  
15 Deputy Lopez did not see any object in Mr. Holland's hand  
16 when he turned? I realize that's different from his  
17 deposition testimony. It's just my hypothetical.

18 Would you then have a different opinion as to  
19 whether the deadly force was appropriate?

20 MS. ANDERSEN: Objection. Incomplete hypothetical;  
21 You can answer.

22 THE WITNESS: Based on the unlimited circumstances  
23 that you provided, Mr. G, it's difficult to answer that  
24 question. What I know is this: Is that despite the  
25 felonious threats that Mr. Holland had made prior to the



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1 A. -- and I'm sorry to interrupt you. It would --  
2 specific to your hypothetical, it would have been based on  
3 Deputy Lopez's ability to perceive what Mr. Holland's  
4 actions represented at the time he was turning without, in  
5 your hypothetical, without an object in his hands.

6 BY MR. GALIPO:

7 Q. Right. But my hypothetical is, assume he saw that  
8 his hands were visibly empty and perceived that.

9 A. Okay. I think you changed it a little bit.

10 The perception is important to me as an expert in  
11 this case because now based on the limited circumstances of  
12 your incomplete hypothetical, Deputy Lopez is perceiving that  
13 there is nothing in his hands. So it could be that Mr.  
14 Holland in this hypothetical was turning to do something, but  
15 without an object in his hands.

16 Q. Then would you agree in that hypothetical it would  
17 be inappropriate to use deadly force if Deputy Lopez  
18 perceived he had nothing in his hands?

19 MS. ANDERSEN: Objection. Incomplete hypothetical.

20 You can answer.

21 THE WITNESS: Yes. It would be difficult to explain  
22 why lethal force was used.

23 BY MR. GALIPO:

24 Q. And my second hypothetical would be the same thing,  
25 but this time Mr. Holland turns, and Deputy Lopez recognizes

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1 in your report when you were citing a part of the Department  
2 of Justice report about Mr. Holland running away from Deputy  
3 Lopez southbound with his cell phone in his hand.

4 Do you recall that reference?

5 A. Yes.

6 Q. Now, I want to ask you a few questions about the  
7 shots. I think we talked briefly about it, and if you need  
8 to turn to your report as to where the shots struck Mr.  
9 Holland because I think you explained to me there were six  
10 shots, and your understanding is four of them struck Mr.  
11 Holland; is that right?

12 A. Yes, sir. Mr. G, may I reference my report?

13 Q. Yes, you may. And if you want to let us know if you  
14 get to the page that you itemized that, that would be  
15 helpful.

16 A. Thank you, sir. I'm looking at Page 21, Mr. G.

17 Q. Okay. Thank you. So let me see if I can help take  
18 us through this.

19 Do you have that one shot struck him in the left  
20 chest; one the upper-left buttock; one the back of his left  
21 thigh; and one the left top of his head?

22 A. Yes, sir.

23 Q. Would you agree, generally, that -- I realize you're  
24 not a medical doctor or forensic pathologist, but having a  
25 career in law enforcement and in reviewing many shooting

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1 cases, would you agree that the left buttock would at least  
2 have to be exposed to the gun to get struck in the left  
3 buttock?

4 A. Yes. I think that -- yes, to answer your question,  
5 and to add, I believe that the shots placement in this case  
6 shows that all the rounds that hit Mr. Holland were generally  
7 on the left side of his body which was consistent with Deputy  
8 Lopez's deposition testimony about the actions of Mr.  
9 Holland.

10 Q. And then the shots to the back of the left thigh,  
11 you would agree the back of the left thigh would have to be  
12 exposed?

13 A. Or turning to be exposed, yes, sir.

14 Q. Did you ever consider that the initial shots may  
15 have struck him in the buttocks and leg, and then he  
16 turned?

17 MS. ANDERSEN: I'm going to object to the extent  
18 that exceeds his expert designation.

19 But you can answer.

20 THE WITNESS: I don't recall in the autopsy report,  
21 Mr. G, if the doctor opined on -- it would be very difficult,  
22 if he opined on the shot sequence, which hit Mr. Holland  
23 first and which hit Mr. Holland last.

24 So your incomplete hypothetical or your question  
25 about is it possible, I suspect it is possible.

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1 BY MR. GALIPO:

2 Q. Okay. Let me just ask a few other questions about  
3 what occurred immediately after the shooting because one of  
4 the things you mentioned was the public safety statement.

5 And do you have an understanding whether that was  
6 given after the shooting?

7 A. My understanding is that Sergeant Rios took a public  
8 safety statement.

9 Q. Was that recorded on the belt recorder?

10 A. I don't know.

11 Q. Do you know if there was any mention in this public  
12 safety statement about an object in his hand or Mr. Holland  
13 turning to his left?

14 MS. ANDERSEN: Objection to the extent it calls for  
15 speculation.

16 But you can answer.

17 THE WITNESS: I don't know that that would  
18 necessarily be included in the public safety statement  
19 obtained by Sergeant Rios. However, I do recall in his  
20 deposition testimony Deputy Lopez told Deputy Hillebrand that  
21 he was turning towards me; he was going to -- he said, "I'm  
22 going to shoot you."

23 BY MR. GALIPO:

24 Q. Okay. And is it your understanding that after the  
25 shooting Deputy Lopez alerted dispatch that shots had been

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1 fired?

2 A. That was my recollection.

3 Q. And did you ever hear Deputy Lopez on the radio

4 dispatch before or after the shots indicate that he believed

5 Mr. Holland had a firearm?

6 A. I don't recall that radio broadcast.

7 Q. And you understand Deputy Hillebrand arrived less  
8 than 90 seconds after the shooting?

9 A. Yes. Approximately 90 seconds, yes, sir.

10 Q. And do you recall Deputy Hillebrand asking Deputy  
11 Lopez, "Where is the gun, did he have a gun?"

12 A. Yes, I believe there was -- there were two questions  
13 that Deputy Hillebrand asked. The first question was, "Are  
14 you okay." And Deputy Lopez responded that he was.

15 I believe Deputy Hillebrand also testified that in  
16 his deposition when he arrived, Deputy Lopez was still  
17 providing cover. So maybe he was still pointing his firearm  
18 towards Mr. Holland.

19 The second question then Deputy Hillebrand asked is,  
20 "Where is the gun," and I believe Deputy Lopez responded, "I  
21 don't know. "He threatened --" or "He said he was going to  
22 shoot me."

23 My assessment of that statement, Mr. G, simply is,  
24 that Deputy Lopez was not -- was not making the affirmative  
25 statement, I don't know where the gun is or -- I'm sorry -- I

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1 don't know if he would had a gun. I think Deputy Lopez was  
2 trying to communicate to Deputy Hillebrand, I don't know  
3 where the gun landed after the shooting; I don't know where  
4 it is.

5 Q. Do you recall Deputy Hillebrand asking Deputy Lopez,  
6 "Did he have a gun?"

7 A. I recall the question was, "Where is the gun."

8 Q. And again, I'm looking at a portion of the DOJ  
9 report, and at least here, it says that Hillebrand asked,  
10 "Where is the gun, did he have a gun" kind of both of them.

11 A. Okay.

12 Q. And then Lopez replied, "I don't know. He said he's  
13 going to shoot me."

14 Do you generally recall that?

15 A. Yes, sir. That sounds accurate.

16 Q. Based on your review of the materials and listening  
17 to the audio of the belt recordings, did Deputy Lopez ever  
18 tell the arriving officers, "Be careful, he has a gun on  
19 him," or words to that effect?

20 A. No.

21 Q. And did you ever hear anywhere on the belt recording  
22 of Deputy Lopez him telling anyone when they arrived at the  
23 scene that Mr. Holland had turned towards him?

24 A. I don't recall that specific narrative offered by  
25 Deputy Lopez. I believe he did testify to that in his

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1 deposition. There were only two officers that initially  
2 arrived after the shooting. That would have been Deputy  
3 Hillebrand -- excuse me -- and Sergeant Rios.

4 Q. And is it your understanding there was a cell phone  
5 recovered?

6 A. Yes, sir, recovered by Mr. Holland's body.

7 Q. Do you have a general understanding as to where the  
8 cell phone was recovered in relation to Mr. Holland's body?

9 A. There were two statements, actually, with respect to  
10 the location. Deputy Hillebrand thought it was near his  
11 mid-torso leg area. And I think Sergeant Rios believed that  
12 it was actually at his head area.

13 But the fact it's not in dispute, is that at least  
14 in my opinion is that a cell phone was recovered at the  
15 scene.

16 Q. Did the officers based on your review, recognize it  
17 as a cell phone when they recovered it?

18 A. That's my understanding. It's how it was listed in  
19 the body of the material provided to me.

20 Q. Have you been provided photos of the cell phone as  
21 part of the documents you reviewed?

22 A. I believe there were photos in the crime scene  
23 photographs, yes.

24 Q. In some of the cases you've worked on as an expert  
25 and maybe reviewed during your law enforcement career, have

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1 you noted that sometimes there's disputed facts?

2 A. Yes.

3 Q. Okay. It's not uncommon, is it, where there is  
4 disputes as to some of the facts of a case?

5 A. Yes, sir. It's not too uncommon.

6 Q. And is it your general understanding as an expert  
7 witness when there is disputed facts, that the jury  
8 ultimately decides those disputed facts?

9 MS. ANDERSEN: I'm just going to object to the  
10 extent it calls for a legal conclusion.

11 But, of course, you can answer.

12 THE WITNESS: Yes, sir. I don't know that my  
13 opinion carries any more weight than another experts'  
14 opinions. Ultimately, the jury will decide which they  
15 believe to be accurate.

16 BY MR. GALIPO:

17 Q. Okay. And obviously, whether the use of force was  
18 excessive or not, you understand that's ultimately a jury  
19 decision as well?

20 A. Yes, sir.

21 Q. I take it in many of the cases where you've been an  
22 expert for one side, there is also been an expert retained on  
23 the other side?

24 A. Yes, sir.

25 Q. And has it been uncommon in your experience for the



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1 CERTIFICATE  
2 OF  
3 CERTIFIED STENOGRAPHIC SHORTHAND REPORTER  
4

5 I, JINNA GRACE KIM, CSR No. 14151, a Certified  
6 Stenographic Shorthand Reporter of the State of California,  
7 do hereby certify:

8 That the foregoing proceedings were taken before me  
9 at the time and place herein set forth;

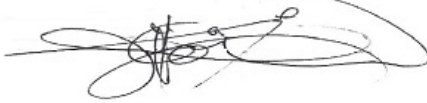
10 That any witnesses in the foregoing proceedings,  
11 prior to testifying, were placed under oath;

12 That a verbatim record of the proceedings was made  
13 by me, using machine shorthand, which was thereafter  
14 transcribed under my direction;

15 Further, that the foregoing is an accurate  
16 transcription thereof.

17 I further certify that I am neither financially  
18 interested in the action, nor a relative or employee of any  
19 attorney of any of the parties.

20  
21 IN WITNESS WHEREOF, I have subscribed my name, this  
22 date: August 21, 2024.

23  
24   
25 Jinna Grace Kim, CSR No. 14151